

## **REMARKS**

In view of the following remarks, reconsideration and allowance of the present application are respectfully requested.

Currently, claims 46-70 are pending in the present application, including independent claims 46, 57 and 70. In general, the present invention is directed to a finger glove that can fit onto a finger or fingers for cleaning adjacent surfaces, such as the teeth or gums of a user. For instance, independent claim 57 is directed to a cleaning device comprising a first hollow member having an open end for the insertion of a first finger, a second hollow member having an open end for the insertion of a second finger, and a connecting portion for connecting the first hollow member to the second hollow member.

In the Office Action, claims 46-56 were indicated as being allowable. Also, the subject matter of claim 68 was indicated as being allowable if rewritten in independent form.

Claims 57-70 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. The Office Action states that "it is unclear as to what 'configured' means" in both independent claims 57 and 70. Applicants respectfully submit that the phrase "configured to clean the teeth and gums of a user" describes the "texturized surface" element in both claims 57 and 70. Applicants note that the present application describes various potential uses, other than cleaning teeth or gums, and the claim language specifically requires that the texturized surface be "configured to clean the teeth and gums of a user." Applicants also note that the dental wipe can be used in other applications. For example, the wipe can be used to clean various utensils, objects or surfaces and/or to polish the various items. Pg. 15, lines 1-7. As such,

Also, the Office Action attempts to define the word "texturized" by referring to a dictionary. However, Applicants point to the present application, as defining the word "texturized" as follows:

As used herein, the term "texturized" refers to a base web having projections from a surface of the web in the Z-direction. The projections can have a length, for instance, from about 0.1mm to about 25mm, particularly from about 0.1mm to

about 5mm, and more particularly from about 0.1mm to about 3mm. The projections can take on many forms and can be, for instance, bristles, tufts, loop structures such as the loops used in hook and loop attachment structures, and the like.

Pg. 8, lines 17-23.

Applicants point out that a “fundamental principle contained in 35 U.S.C. §112, second paragraph is that applicants are their own lexicographers.” MPEP §2173.01. Applicants submit that the definition of “texturized” contained within the present specification sufficiently defines “texturized” without the need to refer to any dictionary. As such, Applicants believe that the claims are definite within the meaning of 35 U.S.C. §112 without the aid of a dictionary definition.

The remaining claims, claims 57-67 and 69-70, were again rejected as being obvious under 35 U.S.C. § 103(a) in view of various prior art references including Carr, McCarver, et al., Ness, Rescigno, Porcelli, and Meunier. Also, a newly cited reference, Adams, was combined with McCarver, et al., and Carr to reject claims 57-59, 61-66, and 69. Adams was also combined with Carr to reject claim 70.<sup>1</sup>

Applicants respectfully submit that no motivation, incentive, or suggestion exists to combine any of the references in any manner. Obviousness may only be established by modifying the teachings of the prior art to produce the claimed invention if there is some teaching, suggestion, or motivation to do so found either in the reference itself or in the knowledge generally available to one of ordinary skill in the art. Accordingly, even if all elements of a claim are disclosed in various prior art references, the claimed invention taken as a whole cannot be said to be obvious without some reason given in the prior art why one of ordinary skill would have been prompted to modify the teachings of the references to arrive at the claimed invention. Where no reasonable intrinsic or extrinsic justification exists for the proposed modification, a case of prima facie obviousness will not have been established.

First, no motivation exists to modify the teachings of Carr with the teachings of McCarver, et al. to reject claims 57-59 and 61-67. Carr is directed to a finger brush

---

<sup>1</sup> Applicants note that the Office Action states “Claim 70 is rejected under 35 U.S.C. § 103(a) as being *anticipated* by Adams in view of Carr.” Applicants respond by assuming that this rejection is an obviousness rejection under §103 and not an anticipated rejection under §102, which would be improper.

device including bristles located on the tip portion having a closed end. Col. 4, ll. 9-13. When the tip portion is placed onto the fingertip of an individual, a sheath portion is unrolled onto the finger of the individual who will be using the finger mounted brush device. Col. 4, ll. 14-18. Applicants submit that there is no motivation to combine the finger brush including bristles with the smooth surface disclosed in McCarver, et al. and that there is no disclosure of how that modification would be accomplished.

Furthermore, in Carr, the finger and hand mounted brush is made of an elastic, plastic material. Col. 6, ll. 10-12. Thus, there is no motivation to seek a different type of elastic, such as a non-woven comprising an elastic component and a non-elastic component. In addition, there is no teaching or suggestion that modifying Carr with the elastic non-woven of McCarver, et al. is even possible. As such, there is no motivation in either Carr or McCarver, et al. to combine the two references as suggested by the Office Action since elasticity in Carr is already accomplished.

Secondly, claims 57-59 and 61-66 were rejected by the combination of Ness and McCarver, et al. However, Applicants submit no suggestion, motivation, or incentive exists to support this combination. Ness is directed to a device for massaging and cleaning the teeth and gums made of a casting that is flexible and, at least, semi-elastic. Col. 3, ll. 36-39. In fact, Ness discloses that the device is a casting formed of partially resilient flexible material, such as rubber. Col. 1, ll. 48-50. As such, there is no motivation in either Ness or McCarver, et al. to combine the two references because there is no disclosure on how to combine the device of Ness including projections with the smooth surface disclosed in McCarver, et al. and that there is no disclosure of how that modification would be accomplished.

Additionally, no motivation or teaching exists to modify the partially flexible material, such as rubber, disclosed by Ness with the elastic nonwoven material of McCarver, et al. In fact, no teaching or suggestion exists to make one of ordinary skill in the art believe that the combination of these teachings is even possible. Thus, Applicants submit that the combination of Ness and McCarver, et al. is improper.

Thirdly, the Office Action combines Rescigno with McCarver, et al. to reject claims 57-59 and 61-66. Applicants submit that no motivation or suggestion exists to combine McCarver, et al. and Rescigno. Rescigno is directed to an apparatus with non-

slip surfaces which are attached to a user's finger and thumb to manipulate or extend a tongue in order to perform an operation on the tongue or inside the mouth. See, Abstract. The apparatus contains many bristles for creating a non-slip surface to grip the tongue. Applicants submit that there is no motivation to modify the smooth surface of the stockinette disclosed in McCarver, et al. Furthermore, no motivation exists to modify the apparatus of Rescigno with the elastic nonwoven material of McCarver, et al. In fact, no teaching or suggestion exists in either reference that such a combination would even be possible. Thus, Applicants respectfully submit that the references cannot be properly combined.

Next, the Office Action rejected claim 60 in view of three different combinations of three references. Specifically, Porcelli or Meunier was combined with one of the combinations discussed above to provide disclosure for the limitation that the texturized surface comprise looped bristles. However, Applicants submit that no motivation exists to further combine the disclosure of either Porcelli or Meunier with any of the references, for at least the reasons discussed above.

Also, the Office Action rejected claims 57-59, 61-66, and 69 in view of the combination of Adams, McCarver, et al., and Carr. However, Applicants respectfully submit that no motivation or suggestion exists to combine the cited references. Adams is directed to a pair of cylindrical caps or thimbles adapted to engage snugly over the fingers. The thimbles have their closed ends spherically rounded. Each thimble is provided centrally in its rounded end with a small guide aperture for dental floss. According to Adams, "the thimbles are preferably **rigid** and may be formed of metal, plastic or the like." See Col. 1-2, lines 65-16.

No motivation exists to combine the elastic nonwoven surface with the structure disclosed by Adams. In fact, Adams actually teaches away from the use of a flexible or elastic material, such as an elastic nonwoven, by stating that the thimbles are preferably rigid. Furthermore, no motivation exists to further combine the teachings of Carr for the disclosure of a texturized surface. Adams is directed to a dental floss manipulating device. No motivation exists to further modify the rigid, possibly metal or hard plastic thimbles of Adams with the bristles or bumps of Carr in order to provide a surface for cleaning teeth. In fact, there is no suggestion that such a combination is even possible.

Finally, the Office Action rejected claim 70 by combining Adams and Carr. However, as discussed above, no motivation exists to combine these two references. Adams does not disclose that the first hollow member comprise a texturized surface configured to clean the teeth and gums of a user. In order to overcome this deficiency, the disclosure of Carr was cited to add a texturized surface. However, Applicants again submit that such a combination is improper because one of ordinary skill in the art would not be motivated to modify the rigid, possibly metal, thimble of Adams with any texturized surface configured to clean the teeth of a user.

Applicants respectfully submit that, when properly viewed as a whole, there is simply no motivation to combine the references in the manner suggested in an attempt to render obvious the present claims. Thus, for at least the reasons set forth above, Applicants respectfully submit that independent claims 57 and 70 patentably define over the above-cited references, taken in any proper combination.

Furthermore, Applicants submit that only with Applicants' specification could the structure of either independent claim be attained, and any attempt to arrive at those structures through study of the cited references is only reachable from improper hindsight analysis after viewing Applicants' specification. Applicants submit that it is improper to use a patent applicant's own specification to provide the only suggestion for modifying the prior art. The Federal Circuit has repeatedly warned against using the Applicant's disclosure as a blueprint to reconstruct the claimed invention out of isolated teachings in the prior art. Thus, the mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification.

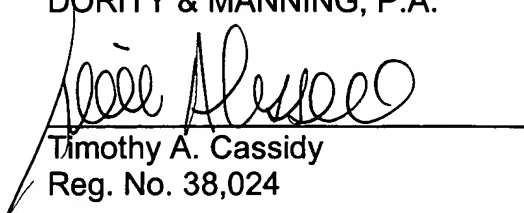
Plainly, the Examiner's only incentive or motivation for so modifying the cited primary references using the teachings of any of the secondary references in the manner suggested in the Office Action results from using Applicants' disclosure as a blueprint to reconstruct the claimed invention out of isolated teachings in the prior art, which is improper under 35 U.S.C. § 103. It is improper to simply pick and choose (or dismantle) just those components needed from a prior art reference to combine in a Section 103 combination. Accordingly, it is respectfully submitted that any such

modification of the cited references relies on the impermissible use of hindsight, which cannot be successfully used to support a prima facie case of obviousness.

In conclusion, Applicants respectfully submit that the presently pending claims are patentably distinct over the cited references, and favorable reconsideration and allowance of all the claims are requested. Examiner Cole is invited and encouraged to contact the undersigned should any issues remain after consideration of the above remarks.

6/17/05  
Date

Respectfully submitted,  
DORITY & MANNING, P.A.

  
Timothy A. Cassidy  
Reg. No. 38,024

Alan Marshall  
Reg. No. 56,405

DORITY & MANNING, P.A.  
P.O. Box 1449  
Greenville, SC 29602  
(864) 271-1592  
Fax (864) 233-7342